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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,006	12/10/2003	Mark G. Reichmann	17142	9434
23556	7590	08/12/2005		
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			EXAMINER TORRES VELAZQUEZ, NORCA LIZ	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/734,006

Applicant(s)

REICHMANN ET AL.

Examiner

Norca L. Torres-Velazquez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2003 and 06 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7604 32904
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear if the aliphatic polyester comprises only one polymer or a polymer and polydioxipane-s one. The claim recites an improper Markush group. It is noted herein that a proper Markush language reads "selected from the group consisting of... A, B, C and D". In the alternative, the claim can read "one polymer selected from A, B, C or D" so that it is clear that is only one of the polymers listed.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 8-12 and 15-28 are rejected under 35 U.S.C. 102(b) as being anticipated by TSAI et al. (US 6,268,434 B1).

TSAI et al. discloses a biodegradable nonwoven material that comprises fibers of a thermoplastic composition that comprises: a poly(lactic acid) polymers in a weight amount that is greater than 0 but less than 100 weight percent; a polymer selected from the group consisting of a polybutylene succinate polymer, a polybutylene succinate adipate polymer, and a mixture of

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such polymer, in a weight amount that is greater than 0 but less than 100 weight percent. (Refer to claims 1 and 7) The biodegradable nonwoven materials may be used in a disposable absorbent product intended for the absorption of fluids, such as body fluids. (Col. 1, lines 25-27) The reference also teaches the construction of continuous filaments and also staple fibers. (Col. 11, lines 5-8)

The Examiner equates the poly(lactic acid) polymer to the second polymer of the present invention and the polybutylene succinate or the polybutylene succinate adipate polymer to the aliphatic polyester polymer of the present invention.

5. Claims 1-6, 8-12 and 15-28 are rejected under 35 U.S.C. 102(b) as being anticipated by TSAI et al. (US 5,976,694).

TSAI et al. relates to thermoformable ion-sensitive compositions and water-dispersible thermoformable articles, such as fibers. (Abstract) The reference teaches compositions that comprise at least one water-sensitive polymer, desirably a copolyester, and at least one additional polymer such as polylactide (PLA). (Col. 3, lines 46-52) The weight ratio of water-sensitive polymer to the at least one additional polymer component is from about 60:40 to about 90:10. (Col. 4, lines 45-47) The reference teaches that the water-sensitive fibers may be formed by meltblowing and spunbonding processes, and by any spinning operation. (Col. 5, lines 35-44) The reference teaches that the water-sensitive composition may be thermoformed into multicomponent fibers, such as sheath/core fibers. (Col. 5, lines 45-63) Nonwoven fabrics containing the water-sensitive fibers may be formed from a single layer or multiple layers. (Col. 7, lines 19-20) The reference further teaches different applications that read on the applications/uses claimed herein. (Refer to Col. 30-36 and Col. 8, lines 45-50)

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6, 8, 9-12, 15-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over RYAN et al. (US 6,506,873 B1) in view of TSAI '434.

RYAN et al. relates to nonwoven fibrous material, which includes a plurality of polylactide containing fibers. (Abstract and Col. 1, lines 16-17) The nonwoven can have utility in medical, hygiene, disposable and durable nonwoven applications where biodegradability can advantageously be combined with a fabric or laminate function. Some applications are diapers, training pants, feminine absorbent articles, among others. (Col. 3, lines 28-38) The preferred fibers include at least one component, polylactide or polylactic acid (PLA). The reference teaches multicomponent fibers that include at least one component based upon polylactide and at least one additional component, which may be based upon polylactide or upon a material other than polylactide. (Col. 3, lines 56-67 through Col. 4, lines 1-3) The reference teaches that preferred meltstable polylactide compositions preferably include a lactide concentration of less than about 2% by weight. (Col. 7, lines 25-30) Among the polymers that can be used as other components in a multicomponent fiber include polyolefins, polyamides, aromatic/aliphatic polyesters, biodegradable aliphatic polyesters and biodegradable aliphatic-aromatic polyesters. (Col. 10, lines 53-67) The reference also teaches the use of polycaprolactone (PCL), polyhydroxy propionate (or butylate, capreolate or valerate), among others. (Col. 11, lines 47-

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57) Fiber formation processes include melt spinning, melt blowing and spunbonding. (Col. 12, line 2 & Col. 27, lines 1-2) The reference also teaches carding. (Col. 26, lines 50-52)

However, RYAN et al. is silent to the percentage of the different components in the polymer blend.

TSAI et al. as stated above, discloses a biodegradable nonwoven material that comprises fibers of a thermoplastic composition that comprises: a poly(lactic acid) polymers in a weight amount that is greater than 0 but less than 100 weight percent; a polymer selected from the group consisting of a polybutylene succinate polymer, a polybutylene succinate adipate polymer, and a mixture of such polymer, in a weight amount that is greater than 0 but less than 100 weight percent. (Refer to claims 1 and 7) The biodegradable nonwoven materials may be used in a disposable absorbent product intended for the absorption of fluids, such as body fluids. (Col. 1, lines 25-27) The reference also teaches the construction of continuous filaments and also staple fibers. (Col. 11, lines 5-8)

Since both references are directed to biodegradable materials, the purpose disclosed by TSAI et al. would have been recognized in the pertinent art of RYAN et al.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the content of the different components and provide the values taught by TSAI et al. with the motivation of producing materials suitable for use in disposable absorbent products as disclosed by TSAI et al. above.

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8. Claims 7, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over RYAN et al. and TSAI '434 as applied above, and further in view of FLETCHER et al. (US 2002/0111596 A1).

RYAN et al. and TSAI are silent to the use of a polyalphaolefin.

RYAN et al. teaches the use of poly-caprolactone.

FLETCHER et al. teaches material suitable for a flushable absorbent assembly and teaches the use of amorphous polyalphaolefin or a poly-caprolactone. [0078]

Therefore, because these two polymers were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the poly-caprolactone taught by RYAN et al. for polyalphaolefin.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

BASTIOLI et al. (US 5,874,486)

JP2004011037 A

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Norca L. Torres-Velazquez
Primary Examiner
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August 3, 2005